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*Attorney for Defendants.*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

JOHN S. DALBY,

Plaintiff,

v.

DITECH FINANCIAL LLC and FEDERAL  
NATIONAL MORTGAGE ASSOCIATION,

Defendants.

Case No. \_\_\_\_\_

**NOTICE OF REMOVAL**

Defendants, Ditech Financial LLC (“Ditech”) and Federal National Mortgage Association (“Fannie Mae”), by counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby file their notice of removal for the above-entitled action, which is currently pending in the Superior Court for the State of Alaska, Third Judicial District of Anchorage (Case No. 3AN-17-9340C1), and state as follows:

**Background**

1. On or about September 27, 2017, Plaintiff John S. Dalby (“Plaintiff”) commenced an action in the Superior Court for the State of Alaska by filing a Complaint for Declaratory and

Injunctive Relief and Damages (“Complaint”) against Ditech and Fannie Mae, Case No. 3AN-17-9340C1, entitled *Dalby v. Ditech Financial LLC, et al.*

2. Plaintiff alleges that Ditech failed to provide him with notice of servicing transfer, monthly statements, and escrow statements related to his home loan. He further alleges that the Deed of Trust encumbering his home located at 17150 E. Melin Road, Palmer, Alaska 99543 (the “Property”), was not properly assigned to Ditech, and thus Ditech had no right to foreclose and ultimately transfer the Property to Fannie Mae.

3. Based upon these allegations, Plaintiff asserts claims to quiet title to the Property, for breach of contract, and for purported violations of Alaska’s Unfair Trade Practices and Consumer Protection Act.

4. Plaintiff requests that the foreclosure be rescinded and his title to the Property be restored, along with other damages.

5. Ditech was served with a copy of the Complaint, Summons and Notice to Both Parties of Judicial Assignment (“Ditech Summons”), Entry of Appearance and Notice of Electronic Distribution (“Appearance”), and Case Description form (“Case Description”) on October 2, 2017. Copies of the Complaint, Ditech Summons, Appearance, and Case Description are attached as Exhibit A.

6. Fannie Mae was served with a copy of the Complaint, Summons and Notice to Both Parties of Judicial Assignment (“Fannie Mae Summons”), Appearance, and Case Description on October 4, 2017. Copies of the Complaint, Fannie Mae Summons, Appearance, and Case Description are attached as Exhibit B.

7. The Complaint, Ditech Summons, Fannie Mae Summons, Appearance, and Case

Description constitute “all process, pleadings, and orders served upon” Ditech and Fannie Mae in this action to date. 28 U.S.C. § 1446(a).

### **Timeliness of Removal**

8. Ditech received notice of this action through the service of the Complaint, Ditech Summons, and Appearance on October 2, 2017. Fannie Mae received notice of this action through the service of the Complaint, Fannie Mae Summons, and Appearance on October 4, 2017. Therefore, this notice of removal is timely under 28 U.S.C. § 1446(b) because less than 30 days have passed since Ditech and Fannie Mae were served with the Complaint.

### **Removal Based on Diversity Jurisdiction**

9. This is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one that may be removed to this Court by Ditech pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, as the matter in controversy (a) is between citizens of different States, and (b) exceeds the sum or value of \$75,000, exclusive of interests and costs.

10. Removal to this court is proper as the United States District Court for the District of Alaska embraces the Superior Court for the State of Alaska, Third Judicial District of Anchorage, where the state court action was filed.

11. On information and belief, Plaintiff is a citizen of the State of Alaska. At the time of filing his Petition and at the time of filing this Notice of Removal, Plaintiff was and is domiciled in Alaska. (Compl. ¶ 4.)

12. Ditech is a Delaware limited liability company with its principal offices located in Pennsylvania and it has two members: Walter Management Holding Company LLC and Green Tree Servicing Corp.

13. Green Tree Servicing Corp. is a Delaware corporation with its principal offices located in Minnesota.

14. Walter Management Holding Company LLC is a Delaware limited liability company with its principal offices located in Minnesota, and its sole member is Green Tree Credit Solutions LLC.

15. Green Tree Credit Solutions LLC is a Delaware limited liability company with its principal place of business in Minnesota, and its sole member is Walter Investment Management Corp.

16. Walter Investment Management Corp. is a Maryland corporation with its principal place of business in Florida.

17. Accordingly, Ditech is a citizen of the States of Pennsylvania, Delaware, Minnesota, Florida, and Maryland.

18. Fannie Mae is a “citizen of the District of Columbia for purposes of diversity jurisdiction.” *Jeong v. Fed. Nat. Mortg. Ass’n*, No. A-14-CA-920-SS, 2014 WL 5808594, at \*2 (W.D. Tex. Nov. 7, 2014) (citing 12 U.S.C. § 1717(a)(2)(B)).

19. Thus, the parties are of diverse citizenship.

20. Plaintiff’s Complaint does not seek a specific amount in damages, but requests that the foreclosure be rescinded and his title to the Property be restored through a quiet title claim, along with other damages. (Compl. ¶ 23.)

21. In an action seeking declaratory or injunctive relief or to quiet title, the amount in controversy is measured by the value of the property at issue or the amount of the loan on the

property. *See Chapman v. Deutsche Bank Nat. Tr. Co.*, 651 F.3d 1039, 1045 n.2 (9th Cir. 2011); *see also Patera v. Citibank, N.A.*, 79 F. Supp. 3d 1074, 1082–83 (N.D. Cal. 2015).

22. Plaintiff swore under penalty of perjury in his bankruptcy court petition<sup>1</sup> that the value of the Property was \$170,000. A true and correct copy of Plaintiff's bankruptcy petition is attached as Exhibit C.

23. And the original principal balance on the loan on the Property was \$180,500. A true and correct copy of the recorded Deed of Trust<sup>2</sup> on the Property is attached as Exhibit D.

24. Therefore, because the matter in controversy is between citizens of different States and exceeds the sum or value of \$75,000, this Court has original jurisdiction over this matter under 28 U.S.C. § 1332.

#### **Notice to State Court and Plaintiff**

25. Pursuant to 28 U.S.C. § 1446(d), Ditech and Fannie Mae promptly provided written notice of this removal to Plaintiff and has filed a copy of this Notice of Removal with the Clerk of the Court for the state court.

WHEREFORE, Defendants, Ditech Financial LLC and Federal National Mortgage Association, respectfully request that the above-entitled action be removed from the Superior Court for the State of Alaska to this Court.

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<sup>1</sup> The Court may take judicial notice of documents filed in the Plaintiff's bankruptcy case. *In re Century City Doctors Hosp.*, LLC, No. ADV.LA 09-01101-SB, 2010 WL 6452903, at \*6 (B.A.P. 9th Cir. Oct. 29, 2010) ("court documents filed in an underlying bankruptcy case are subject to judicial notice in related adversary proceedings and district court lawsuits").

<sup>2</sup> The Court may take "judicial notice of publicly recorded documents." *Sandy v. Bank of Am. Corp.*, 678 Fed. Appx. 579, 580 (9th Cir. 2017).

Respectfully submitted,

LAW OFFICE OF RYAN A. STUART, P.C.

By: /s/ Ryan A. Stuart

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*Attorney for Defendants*

**CERTIFICATE OF SERVICE**

I, Ryan A. Stuart, certify that on November 1, 2017, I electronically filed the foregoing **Notice of Removal** with the Clerk of the Court using the CM/ECF system and deposited a copy of the same in the U.S. Mail, proper postage prepaid, to the counsel listed below:

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/s/ Ryan A. Stuart